

HOUSE BILL No. 1987

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-10-1-2.

Synopsis: Indigent parties in civil actions. Allows a court the option of appointing an attorney at no expense to an indigent person for the purpose of prosecuting or defending the person's interests in a civil action when the court determines exceptional circumstances exist that justify the appointment. Requires the court to pay reasonable attorney's fees and litigation expenses incurred by the appointed attorney.

Effective: Upon passage.

Munson

January 17, 2001, read first time and referred to Committee on Ways and Means.

C
o
p
y



Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1987

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-10-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This section**
3 **shall not be construed to prohibit a court from participating in a**
4 **pro bono legal services program or any other program that**
5 **provides legal services to litigants without charge or at a reduced**
6 **fee.**

7 **(b)** If the court is satisfied that a person who makes an application
8 described in section 1 of this chapter does not have sufficient means to
9 prosecute or defend the action, the court: ~~shall:~~

10 (1) **shall** admit the applicant to prosecute or defend as an indigent
11 person; and

12 (2) **may, under exceptional circumstances,** assign an attorney
13 to defend or prosecute the cause.

14 **(c) The factors that a court may consider under subsection**
15 **(b)(2) include the following:**

16 **(1) The likelihood that the applicant will prevail on the merits**
17 **of the applicant's claim or defense.**

2001

IN 1987—LS 6669/DI 51+



C
o
p
y

1 **(2) The applicant's ability to investigate and present the**
2 **applicant's claims or defenses without an attorney given the**
3 **type and the complexity of the facts and legal issues in the**
4 **action.**

5 **(d) The court shall deny an application made under subsection**
6 **(b)(2) if the court determines any of the following:**

7 **(1) The applicant failed to make a diligent effort to obtain an**
8 **attorney before filing an application.**

9 **(2) The applicant is unlikely to prevail on the applicant's**
10 **claim or defense.**

11 **(e) All officers required to prosecute or defend the action shall do**
12 **their duty in the case without taking any fee or reward from the**
13 **indigent person.**

14 **(f) The reasonable attorney's fees and expenses of an attorney**
15 **appointed to represent an applicant under section 1 of this chapter**
16 **shall be paid from the money appropriated to the court:**

17 **(1) appointing the attorney, if the action was not transferred**
18 **from another county; or**

19 **(2) from which the action was transferred, if the action was**
20 **transferred from another county.**

21 **SECTION 2. An emergency is declared for this act.**

C
o
p
y

